



ILLINOIS

Legal System	Constitution	Bill of Rights	Form of Government
Common Law Statutory Law	Written	Yes	Republic

A. Criminal Statutes

1. Human Trafficking and Related Offenses

a. 720 Ill. Comp. Stat. Ann. 5/10-9 (2020) – Trafficking in Persons, Involuntary Servitude, and Related Offenses

i. Summary

A person commits the offense of trafficking in persons:

when he or she knowingly:

- (1) recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, transport, provide, or obtain by any means, another person, intending or knowing that the person will be subjected to involuntary servitude; or
- (2) benefits, financially or by receiving anything of value, from participation in a venture that has engaged in an act of involuntary servitude or involuntary sexual servitude of a minor.

720 Ill. Comp. Stat. Ann. 5/10-9(d).

A company commits the offense of trafficking in persons “when the company knowingly benefits, financially or by receiving anything of value, from participation in a venture that has engaged in an act of involuntary servitude or involuntary sexual servitude of a minor.” 720 Ill. Comp. Stat. Ann. 5/10-9(d).

A person commits the offense of involuntary servitude:

when he or she knowingly subjects, attempts to subject, or engages in a conspiracy to subject another person to labor or services obtained or maintained through any of the following means, or any combination of these means:

- (1) causes or threatens to cause physical harm to any person;
- (2) physically restrains or threatens to physically restrain another person;
- (3) abuses or threatens to abuse the law or legal process;
- (4) knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person;
- (5) uses intimidation, or exerts financial control over any person; or

- (6) uses any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform the labor or services, that person or another person would suffer serious harm or physical restraint.

720 Ill. Comp. Stat. Ann. 5/10-9(b).

The offense of involuntary sexual servitude of a minor occurs:

when a person knowingly recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, transport, provide, or obtain by any means, another person under 18 years of age, knowing that the minor will engage in commercial sexual activity, a sexually explicit performance, or the production of pornography, or causes or attempts to cause a minor to engage in one or more of those activities and: (1) there is no overt force or threat and the minor is between the ages of 17 and 18 years [Class 1 felony]; (2) there is no overt force or threat and the minor is under the age of 17 years [Class X felony]; or (3) there is overt force or threat [Class X felony].

720 Ill. Comp. Stat. Ann. 5/10-9(c).

ii. Sentencing

The offense of trafficking in persons is generally a Class 1 felony for which a court shall sentence a convicted person to a term of imprisonment ranging from four to 15 years. “A violation of [720 Ill. Comp. Stat. Ann. 5/10-9(d)] by a company is a business offense for which a fine of up to [USD] 100,000 may be imposed.” 720 Ill. Comp. Stat. Ann. 5/10-9(d).

For involuntary servitude, generally, a violation of 720 Ill. Comp. Stat. Ann. 5/10-9 subsection (b)(1) (causes or threatens to cause physical harm to any person) is a Class X felony; a violation of subsection (b)(2) (physically restrains or threatens to physically restrain another person) is a Class 1 felony; a violation of subsection (b)(3) (abuses or threatens to abuse the law or legal process) is a Class 2 felony; a violation of subsection (b)(4) (knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person) is a Class 3 felony; a violation of subsection (b)(5) (uses intimidation, or exerts financial control over any person) is a Class 4 felony; and a violation of subsection (b)(6) (uses any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform the labor or services, that person or another person would suffer serious harm or physical restraint) is a Class 4 felony. 720 Ill. Comp. Stat. Ann. 5/10-9(b).

For involuntary servitude of a minor, generally, a violation of 720 Ill. Comp. Stat. Ann. 5/10-9 subsection (c)(1) (no overt force or threat, and the minor is between the ages of 17 and 18 years) is a Class 1 felony; a violation of subsection (c)(2) (no overt force or threat, and the minor is under the age of 17 years) is a Class X felony; and a violation of subsection (c)(3) (overt force or threat) is a Class X felony. 720 Ill. Comp. Stat. Ann. 5/10-9(c).

Illinois also includes aggravating factors that result in greater punishment. A violation of 720 Ill. Comp. Stat. Ann. 5/10-9 “involving kidnapping or an attempt to kidnap, aggravated criminal sexual assault or an attempt to commit aggravated criminal sexual assault, or an attempt to commit first degree murder, is a Class X felony.” A court shall sentence a person convicted of a violation of this section with aggravating factors to a term of imprisonment for six to 30 years. 720 Ill. Comp. Stat. Ann. 5/10-9(e).

If a court imposes a fine in connection with a conviction related to Illinois’s anti-trafficking statute, “it shall be collected and distributed to the Specialized Services for Survivors of Human Trafficking Fund.” 720 Ill. Comp. Stat. Ann. 5/10-9(g-5).

“Restitution is mandatory upon conviction under [720 Ill. Comp. Stat. Ann. 5/10-9]. In addition to any other amount of loss identified, the court shall order restitution, including the greater of: (1) the gross income or value

to the defendant of the victim’s labor or services or (2) the value of the victim’s labor as guaranteed under the Minimum Wage Law and overtime provisions of the [federal] Fair Labor Standards Act (FLSA) or the Minimum Wage Law, whichever is greater.” 720 Ill. Comp. Stat. Ann. 5/10-9(g).

iii. Statute of Limitations

When a victim is under the age of 18 at the time of the offense, the statute of limitations for a prosecution for involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons is 25 years from when the victim turns 18 years old. 720 Ill. Comp. Stat. Ann. 5/3-6(b-5) (2020).

Effective January 1, 2020, when a victim is over 18 years old at the time of the offense, the statute of limitations is also 25 years. 720 Ill. Comp. Stat. Ann. 5/3-6(b-6).

b. 725 Ill. Comp. Stat. Ann. 5/124B-300 (2015) – Persons and Property Subject to Forfeiture

A person who commits the offense of trafficking of persons, involuntary servitude, or involuntary servitude of a minor under 720 Ill. Comp. Stat. Ann. 5/10-9 shall forfeit to the state any profits or proceeds and any property the person acquired or maintained as a result. 725 Ill. Comp. Stat. Ann. 5/124B-300.

c. 720 Ill. Comp. Stat. Ann. 5/11-14 (2015) – Prostitution

It is an affirmative defense to a charge of prostitution that the accused engaged in or performed prostitution as a result of being a victim of involuntary servitude or trafficking in persons. 720 Ill. Comp. Stat. Ann. 5/11-14(c-5).

d. 720 Ill. Comp. Stat. Ann. 5/33G-3 (2013) – Illinois Street Gang and Racketeer Influenced and Corrupt Organizations Law

Illinois’s racketeering statute includes trafficking in persons and involuntary servitude within its predicate acts. 720 Ill. Comp. Stat. Ann. 5/33G-3(e).

2. Online Child Exploitation and Child Pornography Offenses

720 Ill. Comp. Stat. Ann. 5/11-9.1 (2018) – Sexual Exploitation of a Child

720 Ill. Comp. Stat. Ann. 5/11-20.1 (2020) – Child Pornography

720 Ill. Comp. Stat. Ann. 5/11-23 (2012) – Posting of Identifying or Graphic Information on a Pornographic Internet Site or Possessing Graphic Information with Pornographic Material

720 Ill. Comp. Stat. Ann. 5/14-3 (2019) – Exemptions

720 Ill. Comp. Stat. Ann. 5/124B-10 (2019) – Applicability; Offenses

720 Ill. Comp. Stat. Ann. 5/124B-500 (2019) – Persons and Property Subject to Forfeiture

3. 730 Ill. Comp. Stat. Ann. 150/3 (2019) – Sex Offender Duty to Register

With limited exceptions, a sex offender or sexual predator must register in person and provide accurate information as required by the Department of State Police. 730 Ill. Comp. Stat. Ann. 150/3(a). A “sex offender” means any person who is convicted (or found not guilty by reason of insanity) pursuant to Illinois law, or any substantially similar law, of a sex offense or the attempt to commit an included sex offense. 730 Ill. Comp. Stat. Ann. 150/2(A).

A sex offense for registration purposes includes the offenses of child pornography and aggravated child pornography. 730 Ill. Comp. Stat. Ann. 150/2(B).

B. Civil Liability Statutes

1. 740 Ill. Comp. Stat. Ann. 128/15 (2019) – Trafficking Victims Protection Act

a. Summary

Illinois law permits victims of “the sex trade, involuntary servitude, or human trafficking” to bring a civil lawsuit. 740 Ill. Comp. Stat. Ann. 128/15(a). A legal guardian, agent of the victim, court appointee, or, with the express written consent of the victim, an organization that represents the interests of or serves victims, may bring such a lawsuit on behalf of a victim. A lawsuit may also be brought by a government entity responsible for enforcing the laws of Illinois. 740 Ill. Comp. Stat. Ann. 128/15(a-1).

A victim of involuntary servitude or human trafficking has a civil claim against any person or entity who knowingly subjects, attempts to subject, or engages in a conspiracy to subject the victim to involuntary servitude or human trafficking. 740 Ill. Comp. Stat. Ann. 128/15(a)(b-1).

If a plaintiff or other witness testifies to an act that may be a crime, that evidence does not automatically “require the State’s Attorney to criminally charge any person for such violation.” 740 Ill. Comp. Stat. Ann. 128/30. Additionally, “no person may avoid liability under this Act by means of any conveyance of any right, title, or interest in real property, or by any indemnification, hold harmless agreement, or similar agreement that purports to show consent of the victim of the sex trade, involuntary servitude, or human trafficking.” 740 Ill. Comp. Stat. Ann. 128/45.

It is not a defense to a civil lawsuit that the victim “and the defendant had a marital or consenting sexual relationship” or that the victim “made no attempt to escape, flee, or otherwise terminate contact with the defendant.” 740 Ill. Comp. Stat. Ann. 128/25(a). Finally, this section preserves remedies under other laws by stating,

[t]his Act does not affect the right of any person to bring an action [lawsuit] or use any remedy available under other law, including common law, to recover damages arising out of the use of the victim of the sex trade ... or restrict the liability of any person under other law.

740 Ill. Comp. Stat. Ann. 128/35 (2006). But a person who recovers costs or damages under another statute may not recover for the same costs or damages under this statute. 740 Ill. Comp. Stat. Ann. 128/40.

b. Damages and Other Relief

A prevailing victim is entitled, but not limited, to declaratory relief, injunctive relief, attorney’s fees, compensatory damages, punitive damages, and damages in the amount of gross revenues received by the defendant from the prohibited conduct. 740 Ill. Comp. Stat. Ann. 128/20(1)–(6).

c. Statute of Limitations

The statute of limitations provisions for lawsuits under the Illinois Trafficking Victims Protection Act state:

(b) Subject to both subsections (e) and (f) and notwithstanding any other provision of law, a lawsuit under the Trafficking Victims Protection Act must be commenced within 25 years of the date the limitation period begins to run under subsection (d) or within 25 years of the date the plaintiff discovers or through the use of reasonable diligence should discover both (i) that the sex trade, involuntary servitude, or human trafficking act occurred, and (ii) that the defendant caused, was responsible for, or profited from the sex trade, involuntary servitude, or human trafficking act. The

fact that the plaintiff discovers or through the use of reasonable diligence should discover that the sex trade, involuntary servitude, or human trafficking act occurred is not, by itself, sufficient to start the discovery period under this subsection (b).

(c) If the injury is caused by 2 or more acts that are part of a continuing series of sex trade, involuntary servitude, or human trafficking acts by the same defendant, then the discovery period under subsection (b) shall be computed from the date the person abused discovers or through the use of reasonable diligence should discover (i) that the last sex trade, involuntary servitude, or human trafficking act in the continuing series occurred, and (ii) that the defendant caused, was responsible for, or profited from the series of sex trade, involuntary servitude, or human trafficking acts. The fact that the plaintiff discovers or through the use of reasonable diligence should discover that the last sex trade, involuntary servitude, or human trafficking act in the continuing series occurred is not, by itself, sufficient to start the discovery period under subsection (b).

(d) The limitation periods in subsection (b) do not begin to run before the plaintiff attains the age of 18 years; and, if at the time the plaintiff attains the age of 18 years he or she is under other legal disability, the limitation periods under subsection (b) do not begin to run until the removal of the disability.

(e) The limitation periods in subsection (b) do not run during a time period when the plaintiff is subject to threats, intimidation, manipulation, or fraud perpetrated by the defendant or by any person acting in the interest of the defendant.

(f) The limitation periods in subsection (b) do not commence running until the expiration of all limitations periods applicable to the criminal prosecution of the plaintiff for any acts which form the basis of a [civil lawsuit] under the Trafficking Victims Protection Act.

735 Ill. Comp. Stat. Ann. 5/13-225.

C. Additional Statutes Specific to Human Trafficking

1. 20 Ill. Comp. Stat. Ann. 2630/5.2(h) (2020) – Expungement, Sealing, and Immediate Sealing

A person is immediately eligible for sealing of a criminal record upon completion of a sentence if “participation in the underlying offense was a direct result of human trafficking.” A petition must be filed.

2. 20 Ill. Comp. Stat. 2605/2605-99 (2020); 50 Ill. Comp. Stat. Ann. 705/10.23 (2021); 820 Ill. Comp. Stat. Ann. 95/10 (2019) – Training; Human Trafficking

Lodging establishments must provide employees with training in the recognition and reporting of human trafficking.

Inservice human trafficking training shall be made available to all certified law enforcement, correctional, and court security officers.

3. 30 Ill. Comp. Stat. 583/10 (2004), 584/10 (2005) – State Agency Contract Certification

Every contract entered into by any state agency for the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, must specify that no foreign-made equipment, materials, or supplies furnished to the state under the contract may be produced in whole or in part by forced labor, convict labor, indentured labor under penal sanction, or by the labor of any child under 12 years old. The contractor must agree to comply with this provision of the contract.

4. 325 Ill. Comp. Stat. Ann. 5/3 (2019) – Abused and Neglected Child Reporting Act

An “abused child” includes one whose parent or person responsible for the child’s welfare commits or allows to be committed involuntary servitude, involuntary sexual servitude, or trafficking in persons.

5. 625 Ill. Comp. Stat. Ann. 5/11-216 (2018) – Secretary of State to Provide Information on Human Trafficking

The Secretary of State shall include in its commercial driver’s license curriculum and study guide information on the human trafficking problem in the state.

6. 705 Ill. Comp. Stat. Ann. 405/5-915 (2019) – Expungement of Juvenile Law Enforcement and Juvenile Court Records

A person may request expungement of certain juvenile law enforcement and juvenile court records. Expungement is not automatic for the crime of trafficking in persons.

7. 720 Ill. Comp. Stat. Ann. 5/10-9 (2020) – Department of Human Services Assistance for Human Trafficking Victims

Subject to the availability of funds, the Department of Human Services may provide or fund emergency services and assistance to individuals who are human trafficking victims.

8. 725 Ill. Comp. Stat. Ann. 5/116-2.1 (2013) – Motion to Vacate Prostitution Convictions for Sex Trafficking Victims

A court may grant a motion to vacate a prostitution conviction if the violation was a result of the defendant having been a victim of human trafficking.

9. 730 Ill. Comp. Stat. Ann. 5/5-9-1.21 (2019) – Specialized Services for Survivors of Human Trafficking Fund

Illinois created a fund to provide grants to organizations to provide specialized, trauma-informed services specifically designed to address the priority service needs associated with prostitution and human trafficking.

10. 740 Ill. Comp. Stat. Ann. 45/6.1 (2021) – Crime Victim Compensation Act

Human trafficking victims are eligible to apply for compensation under the Illinois Crime Victim Compensation Act if they satisfy requirements applicable to all eligible victims.

11. 775 Ill. Comp. Stat. Ann. 50/5 (2021); 20 Ill. Comp. Stat. Ann. 1305/10-34 (2016) – Posted Notice Required; Public Awareness of the National Hotline Number

Certain businesses and establishments are required to post a notice containing information about the National Human Trafficking Resource Center and its phone number: on-premise alcohol retailer licensees where the consumption of alcohol is the principal business; adult entertainment facilities; primary airports; intercity passenger rail or light rail stations; bus stations; truck stops; emergency rooms within general acute care hospitals; urgent care centers; farm labor contractors; privately operated job recruitment centers; and massage establishments. The notice must be posted in a conspicuous place near the public entrance of the establishment or in another conspicuous location in clear view of the public and employees where similar notices are customarily posted.

The Department of Human Services is also to cooperate with the Department of Transportation to promote public awareness of the hotline, including by posting signs in truck stops, bus stations, train stations, and rest stops.

12. 820 Ill. Comp. Stat. Ann. 115/14 (2014) – Illinois Wage Payment and Collection Act

An employee who is not paid the full amount of wages owed may file a complaint with the Department of Labor or bring a civil lawsuit to recover unpaid wages plus damages. In a civil lawsuit, a successful employee may recover attorney’s fees and costs. An employer may face additional criminal and civil penalties for noncompliance. 820 Ill. Comp. Stat. 115/14.

More information is available at: <https://www2.illinois.gov/idol/Laws-Rules/FLS/Pages/wage-payment-collection.aspx>.

13. 750 Illinois Comp. Stat. Ann. § 61/15 (2021) – Address Confidentiality for Human Trafficking Victims

Human trafficking survivors may be provided with alternate addresses to use to protect their actual location. The survivors’ addresses and phone numbers on file with the Illinois Attorney General are not subject to disclosure under the Freedom of Information Act. 750 Ill. Comp. Stat § 61/15.

D. Significant Cases

1. *People v. Bonaparte*, 7 N.E.3d 132 (Ill. App. Ct. 2014)

The defendant was found guilty of trafficking in persons and involuntary servitude under 720 Ill. Comp. Stat. Ann. 5/10-9. The victims were forced to work as prostitutes throughout the Chicago metropolitan area under the threat of harm and did not share in the proceeds with the defendant.

Because the victims provided sufficient testimony, the appellate court affirmed the defendant’s conviction for involuntary servitude and trafficking in persons. Although one of the victims had been allowed to visit her family in Wisconsin twice, the visits were for less than 24 hours, and she testified that she returned to Chicago with the defendant because she feared for her own and her family’s safety.

2. *People v. Ziembra*, 2018 IL App (2d) 170048, 100 N.E.3d 635 (2018)

Law enforcement officers placed a fake advertisement for sex with an 18-year-old woman online as part of an undercover sting operation. When the defendant responded to the advertisement, the officers posed as a mother offering sex with her underage daughters in exchange for money. After texting the “mother” to ask about rates and inquire about the underage girls, the defendant went to the hotel to meet the mother and underage girls. After the defendant handed cash to an officer posing as the mother in the hotel room, the officers arrested him. The trial court found the defendant guilty of involuntary sexual servitude of a minor under Ill. Comp. Stat. Ann. 720 ILCS 5/10–9(c)(2). On appeal, the defendant claimed the State failed to prove his guilt beyond a reasonable doubt because he had plausible deniability and no minor actually existed. The defendant argued that the online advertisement was for an 18-year-old woman, that he actually intended to have sex with the “mother,” and that no actual underage girls ever existed. The appellate court affirmed the conviction on the evidence contained in the text messages.

E. Academic Research/Papers

Brittany M. Valente, Comment, *Treatment with a Side of Stigma: The Influence of Sex Work Stigma on the Chicago Prostitution and Trafficking Intervention Court*, 68 DEPAUL L. REV. 777 (2019).

Rachael Derham, Comment, *Justice for Victims of Sex Trafficking: Why Current Illinois Efforts Aren't Enough*, 51 J. MARSHALL L. REV. 715 (2018).

Katherine Kaufka Walts, et al., Loyola University Chicago Center for the Human Rights of Children, *Legal Services Assessment for Trafficked Children, Cook County, Illinois Case Study* (2013), available at: <https://www.luc.edu/media/lucedu/chrc/Legal%20Needs%20final%20updated%20w%20copyright.pdfhttps://ecommons.luc.edu/cgi/viewcontent.cgi?article=1005&context=chrc>.

Note, *Remedying the Injustices of Human Trafficking Through Tort Law*, 119 HARV. L. REV. 2575 (2006).

F. Resources

Cook County, Illinois Human Trafficking Task Force:

<https://www.cookcountytaskforce.org/>

National Human Trafficking Hotline (Illinois):

<https://humantraffickinghotline.org/state/illinois>

Shared Hope International, Illinois Report Card (2019):

http://sharedhope.org/PICframe9/reportcards/PIC_RC_2019_IL.pdf

Shared Hope International, Illinois Analysis and Recommendations (2019):

http://sharedhope.org/PICframe9/analysis/PIC_AR_2019_IL.pdf

U.S. Department of Health & Human Services, Illinois: Efforts to Combat Trafficking (2017):

https://nhhtac.acf.hhs.gov/sites/default/files/2019-06/illinois_profile_efforts_to_combat_human_trafficking.pdf

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